Burns Figa & Will P.C.

MICHAEL J. NORTON
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February 1, 2006

Via Facsimile (303-866-3855)
and Hand-Delivery

Kirk Milnek
Director, Legislative Council Staff
Room 029
State Capitol Building
Denver, CO 80203

RE: Colorado Marriage Amendment Initiative
Our File No. 1913.58

Dear Mr. Milnek:

Enclosed is a proposed initiative for a constitutional amendment to the Colorado Constitution for review and comment by the Legislative Council Staff.

The names, addresses, and contact information of two people who are representing the proponents of this proposed initiative are:

Bishop Phillip Porter

Ruben Mendez

In addition to these two proponents, please also direct any communications or comments about this proposed initiative to the undersigned.

Thank you for your courtesy.

Sincerely,

Michael J. Norton
For the Firm

Enclosure

cc: Bishop Phillip Porter (with enclosure)
Ruben Mendez (with enclosure)
Jon Paul (with enclosure)

Thank you for your courtesy.

Sincerely,

Rebekah J. Nimmo
Practice Area

INITIATIVE – COLORADO MARRIAGE AMENDMENT

Ballot Title:

AN AMENDMENT TO THE COLORADO CONSTITUTION EXPRESSING THE PUBLIC POLICY OF THE STATE OF COLORADO THAT ONLY A UNION OF ONE MAN AND ONE WOMAN SHALL BE VALID OR RECOGNIZED AS A MARRIAGE IN THE STATE OF COLORADO.

Text

Be it Enacted by the People of the State of Colorado:

Section 1: Article II of the Colorado constitution is amended BY THE ADDITION OF A NEW SECTION to read:

Section 31. **Marriages – valid or recognized.**

(1) Only a union of one man and one woman shall be valid or recognized as a marriage in this state.

(2) This section shall take effect upon proclamation of the vote by the governor.

Summary:

The measure amends the Colorado constitution by expressing the choice of the people of the state of Colorado to preserve, as a matter of public policy, that only a union of one man and one woman shall be valid or recognized as a marriage in the state of Colorado.

The measure specifies that the constitutional change shall take effect upon proclamation of the vote by the governor.

Statement of Purpose:

The definition of marriage as the union of one man and one woman is based upon thousands of years of common sense tradition and is rooted in immutable and empirical facts of nature and biology with respect to human reproduction and the future of humanity. The union of one man and one woman in marriage makes a unique and essential contribution to the common good of our State and to our children.

In nineteen states across America, people of all races, creeds, and religions have spoken clearly with overwhelming majorities by amending their state constitutions to defend and define marriage. As in these states, the people of Colorado have the right to add an amendment to our state constitution to define marriage clearly and to protect

All Souls Unitarian Universalist Church
730 N. Tejon Street
633-7717
"Journey to Community Film Series"
…Winter/Spring 2006...

…Fifty Years of Science Fiction Films…
Do They Have Something to Say to Us??
7 pm in the Great Hall

Friday, Feb. 17th … "Alien" (1979)

Friday, March 3rd … "E.T. - The Extra Terrestrial" (1982)

Saturday, March 18th … "Cocoon" (1985)

Free…Discussion period following screenings…Free

marriage from those, including activist judges in other states, who seek to redefine this traditional and historical institution.

The efforts in those nineteen states were in response to decisions by activist judges to interpret the constitutions or laws of a number of those states as requiring the recognition of same-sex marriages or civil unions as equivalents of marriage. Proponents of such substitutes for or counterfeits of marriage have used the courts of those states to avoid a vote by the people. While there are currently no such lawsuits pending in Colorado, such a lawsuit is likely in Colorado's near future. The Colorado Marriage Amendment would enable the people of Colorado, not activist judges, to decide this important public policy issue.

One of the first court challenges to a state's marriage laws occurred in Hawaii. In *Baehr v. Lewin*, same-sex couples who had been denied marriage licenses in accord with Hawaii's then-existing law, alleged that Hawaii's marriage laws were not constitutional under Hawaii's Constitution. Before the case was finally decided by Hawaii's courts, the Hawaii Legislature adopted a constitutional amendment declaring that the Hawaii Legislature may reserve marriage to opposite-sex couples. Hawaii voters approved this constitutional amendment in 1998.

In 1999, the Vermont Supreme Court, in *Baker v. State*, held that, under Vermont's Constitution, same-sex couples who had been denied marriage licenses under Vermont's then-existing law, were entitled "to obtain the same benefits and protections afforded by Vermont law to married opposite-sex couples." In complying with this court decision, the Vermont Legislature thereafter created an alternative legal status to marriage for same-sex couples which it called a civil union. The parties to a Vermont civil union are granted the same benefits, protections, and responsibilities as are granted to the spouses of a traditional marriage. Recently, Vermont legislators urged the U. S. Congress to make partners in civil unions eligible for federal benefit programs, including Social Security benefits and military survivor benefits.

In 2000, the California Legislature adopted a voter initiative defining marriage as the union of a man and a woman. Then, in 2003, the California Legislature adopted legislation allowing eligible same-sex couples to register with the state as domestic partners. Registered domestic partners in California were provided with rights, benefits, protections, responsibilities, obligations, and duties that, in most instances, were the same as those granted to the spouses of an opposite-sex marriage under California law.

In 2003, in *Goodridge v. Department of Public Health*, same-sex couples who were denied marriage licenses under existing Massachusetts' law challenged Massachusetts' common law definition of marriage. The Massachusetts Supreme Judicial Court held that "barring an individual from the protections, benefits, and obligations of civil marriage solely because that person would marry a person of the same sex violate[d] the Massachusetts Constitution." Following this court decision, in May 2004, Massachusetts authorities began granting marriage licenses to same-sex couples. In response to this court decision, in 2004, the Massachusetts Legislature preliminarily

More information: call 633-7717

Contact person: Bob Armintor (471-0836)
barmintor_8@msn.com

approved a constitutional amendment that would define marriage as a union between opposite-sex couples and would establish a system of civil unions for same-sex couples with the same benefits, protections, and rights as those granted to the spouses of a traditional marriage. Organizations promoting a citizen initiative recently submitted sufficient petition signatures to require the Massachusetts Legislature to vote on an amendment that would define marriage as the union of a man and a woman without the addition of civil unions.

"Same-sex marriage" continues to be a rapidly developing and contentious issue in other states and around the world. In 2005, the Connecticut Legislature passed legislation authorizing same-sex couples to enter into civil unions. Other states, including Oregon, Washington, New Mexico, New York, and Rhode Island, offer domestic partner benefits to certain employees. Other jurisdictions, including Canada and Spain, have adopted or are considering legislation extending marriage to include same-sex couples.

Many believe that the next logical step in this unprecedented effort to redefine marriage to include same-sex relationships is the legalization of polyamory (group marriage) and the legalization of polygamy (one person with multiple husbands or multiple wives). Most also believe that these substitutes for or counterfeits of marriage will be additional failed social experiments with marriage and the family that have hurt people, most especially children.

Traditional marriage, uniting one man and one woman, forms the optimal basis for family life. Marriage (a) fosters and facilitates the birth of children in culturally approved ways; (b) fosters the bonding between one man and one woman in order to provide the most beneficial setting for raising and nurturing their; (c) fosters bonding between a man and his children so that the man is most likely to become an active participant in family life; (d) fosters the transformation of adolescents into sexually responsible adults; and (e) is an effective institution to protect women by tying men to a monogamous.

People have the right to form relationships that are meaningful to them as they may choose; however, they do not have the right to redefine marriage for all of us. The Colorado Marriage Amendment would prohibit the redefinition of traditional marriage to include same-sex marriage relationships, polyamorous relationships, and polygamous relationships.

Nevertheless, the Colorado Marriage Amendment would not discriminate against any person nor would it prevent people from pursuing or engaging in personally selected lifestyles or relationships. The Colorado Marriage Amendment would not prohibit individuals from receiving benefits, if any, that such individuals are entitled to receive under current law. It would simply prevent individuals from receiving benefits as a *married couple* because it would prohibit the government from granting rights and benefits on a basis other than on the basis of a legal union of one man and one woman in marriage.

In addition, the Colorado Marriage Amendment would not prohibit laws creating or authorizing, for example, the designation of guardians; the appointment of agents or attorneys-in-fact by, for example, a power of attorney; or the creation of an otherwise lawful trust relationship between any two or more unmarried adults. Just as they are today, unmarried couples would continue to be entitled to own property jointly, to execute wills in favor of each other, to grant partners powers of attorney to deal with the other person's medical needs and decisions, to grant partners powers of attorneys to deal with the other person's property and financial matters; and to grant each other the right to assist in the raising of the other person's children. Current law authorizing such relationships or statuses would not be affected by the Colorado Marriage Amendment.

The Colorado Marriage Amendment would not prohibit private employers from recognizing non-marital relationships, such as domestic partnerships or civil unions, or the granting of benefits to an individual employee that the employee could share with another person of his or her choice. Moreover, the Colorado Marriage Amendment would not prohibit the granting of benefits to an individual employee that the employee could share with another person of his or her choice, providing the extension of benefits is not premised on the existence of a marriage relationship.

All the Colorado Marriage Amendment would do is to preserve in our constitution, as a matter of public policy, that only the union of one man and one woman shall be valid or recognized as a marriage in the state of Colorado.